

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.44763 of 2015

Arising Out of PS.Case No. -31 Year- 2015 Thana -PHENHARA District-
EASTCHAMPARAN(MOTIHARI)

- =====
- 1. Md. Kamare Alam Son of Md. Naem
 - 2. Md. Parwej @ Md. Parwej Alam, Son of Md. Nashi Akhtar
 - 3. Md. Shahkar @ Md. Shashkar Alam, Son of Md. Ataullah,
 - 4. Md. Makshud, son of Md. Sarik
 - 5. Md. Sahmiullah, Son of Md. Safruallah
 - 6. Md. Amiullah, Son of Sawarullah
- All are resident of Village Parsuram Pur, Tola-Jamunia, P.S. Phenhera,
District-East Champaran.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s :

For the Opposite Party/s :

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL ORDER

2 13-10-2015 Heard learned counsel for the petitioners, learned
A.P.P. for the State and learned counsel for the informant, who has
suo motu appeared.

The petitioners apprehend arrest in Phenhara P.S.

Case No. 31 of 2015 dated 24.06.2015 instituted under Sections 147/148/149/323/324/379/307/341 of the Indian Penal Code and 27 of the Arms Act.

As per the allegation, the petitioners along with two other persons namely Md. Kaisar Raza and Md. Wasi Akhter had assaulted the prosecution party and had also after entering the house looted articles including gold and silver worth about Rs.1,28,000/- and cash of Rs.30,000/-.

Learned counsel for the petitioners submits that there is a case and counter case for the same incident and the matter was very trivial, that is, relating to the change of the person who was leading the *taravi* prayers. It is submitted that though there is general and omnibus allegation against the petitioner of being party to the assault and taking away articles and cash but against the two other co-accused namely Kaisar Raza and Wasi Akhter there is specific allegation of assault and even as per the injury report of the informant, if for the sake of argument only it is believed to be true, there is fracture on the portion where co-accused Kaisar Raza is said to have assaulted by the butt of the gun. It is submitted that the persons are co-villagers and for a minor difference this incident has occurred and the allegation of entering the house and assaulting the womenfolk and taking away

articles and money are only a cosmetic addition to the allegation. It is further submitted that the petitioners have clean antecedent.

Learned A.P.P. and learned counsel for the informant oppose the prayer for anticipatory bail and submit that the police have found the case of the other party to be false as per the supervision report in the present case. However, they are not in a position to controvert that the specific allegation of assault is against the two other co-accused who are not the petitioners herein and that even the injury report of the informant corresponds to the allegation against the other co-accused.

Considering the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest or surrender before the court below within six weeks from today, the petitioners be released on bail upon furnishing bail bonds of Rs.10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the learned Sub-Divisional Judicial Magistrate, East Champaran, Motihari in Phenhara P.S. Case No. 31 of 2015, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973.

(Ahsanuddin Amanullah, J)

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